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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

SONOS, INC.,  
Plaintiff and Counter-Defendant,  
v.  
GOOGLE LLC,  
Defendant and Counter-Claimant.

Case No. 3:20-cv-06754-WHA  
Consolidated with Case No. 3:21-cv-07559-  
WHA

**SONOS, INC.'S REQUEST FOR  
CLARIFICATION**

Judge: Hon. William Alsup  
Courtroom: 12, 19th Floor  
Trial Date: May 8, 2023

1 In the Final Pretrial Order, the Court ruled that “[t]o the extent that Sonos plans to  
2 mention unasserted patents to support its theory of willful infringement, Google should have the  
3 right to mention what became of those unasserted patents.” Dkt. 660 at 6. Sonos seeks  
4 clarification about whether Sonos’s planned course of action accords with the Court’s order.

5 Sonos’s current plan is to question Ms. Alaina Kwasizur, Sonos’s General Counsel for the  
6 Americas and Pacific Islands and assistant corporate secretary, about Sonos’s disclosure of the  
7 asserted ’966 patent to Google. Because the Court ruled that bringing in unasserted patents  
8 would open the door to allowing Google to discuss what happened with those patents, and further  
9 said that redacting the unasserted patents from Sonos’s draft complaint and cover email would not  
10 be allowed, *see* 5/3/23 Tr. at 104:11-25, Sonos will not seek to introduce those documents into  
11 evidence. Sonos instead intends to offer Ms. Kwasizur’s oral testimony to the effect that Sonos  
12 put Google on notice of the ’966 patent through the provision of a complaint. On this point,  
13 Sonos would not elicit testimony about any patents other than those still in the case. Sonos asks  
14 the Court to clarify that this testimony does not “open the door” to allow Google to discuss  
15 patents that are no longer asserted in this case, because Ms. Kwasizur’s testimony would neither  
16 mention any other patents nor (as with a redacted complaint) invite the jury to speculate about  
17 missing information. Allowing Google to discuss what happened with patents that are no longer  
18 asserted—where Sonos has not mentioned these patents—would be irrelevant to any issue in this  
19 case, would confuse the jury, waste time, and be unfairly prejudicial to Sonos. Fed. R. Evid. 402,  
20 403; Dkt. 618 at 1-5; Dkt. 599 at 1-4.

21 Independently, Sonos seeks clarification on whether introducing evidence about Google’s  
22 prior knowledge of patents in the same chain of priority (i.e., with the same specification) as the  
23 asserted ’885 and ’966 patents would “open the door” to allow Google to discuss patents outside  
24 that patent family. If not, Sonos would introduce single-page excerpts of certain communications  
25 that provided Google with notice of these patents. Sonos would limit its questioning and  
26 evidence to this same zone scenes patent family.

27 To the extent that Google contends that raising this family “opens the door” to discussion  
28 of other patents in that same family, in the interest of fairness, Sonos would not object to Google

1 responding by telling the jury that Sonos withdrew the '206 patent (which is the parent of the  
2 '885 and '966 patents) from this case.

3       However, to the extent Google says it wants to tell (or imply to) the jury that the '206  
4 patent was held invalid for indefiniteness, the Court should not allow Google to make that  
5 statement. No such judgment or order has ever been entered. As discussed with this Court,  
6 during the claim construction process the Western District of Texas court expressed opinions  
7 about this issue from the bench but never entered any order. *See, e.g.*, Dkt. 382 at 2 (“Judge  
8 Albright’s oral claim construction rulings are not and were never the law of the case. ... To the  
9 extent that Google relied on Judge Albright’s rulings, that reliance was misplaced.” (citations  
10 ellipsed)); Dkt. 184 at 1-3. Instead, this Court granted a stipulation of dismissal of the '206 patent  
11 on February 18, 2022. Dkt. 132. Moreover, Google has no indefiniteness claims against the  
12 remaining patents and introducing the concept of indefiniteness would waste time and confuse the  
13 jury.

14  
15 Dated: May 3, 2023

ORRICK HERRINGTON & SUTCLIFFE LLP

and

LEE SULLIVAN SHEA & SMITH LLP

17 By: /s/ Clement S. Roberts

18 Clement Seth Roberts

19 *Attorneys for Sonos, Inc.*  
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